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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,878	09/30/2003	William M. Smith	74088-002	6791

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HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

EXAMINER

LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

MAIL DATE	DELIVERY MODE
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11/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/675,878

Applicant(s)

SMITH, WILLIAM M.

Examiner

M. Scott Lowe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 24-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 24-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/28/07 (corrected amendments) & 6/8/07 (RCE) has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 29,30 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Re claim 29, applicant states that there are connecting links and levers on both sides of the trailer but the elected species of figures 2A,2B,5,7a & 7B do not have this feature, specification does not teach this feature for this embodiment, and it is not clear from the specification how the controls and mechanics would even work.

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Re claim 30, applicant states that there is a different degree of rotational travel for different support arms. This feature is not discussed anywhere in the specification and the drawings do not teach it either. Figure 2B appears to be the only figure that could show this, but it only shows support arms that appear to be at different angles at a common time. There is no teaching of the arms moving different angular distances and there are no distances or geometric relations explained in the original specification. Even if the arms of figure 2 are offset at different angles, there is nothing showing that the relative angular offset isn't constant.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 recites the limitation "the second of said support arms" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites the limitation "said bed" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites the limitation "the trailer hitch attachment" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,9-14,24-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Schramm (US 2,990,966).

Re claim 1, Schramm teaches a inclining trailer, comprising:

a bed (generally 60);

a hitch 94 attached to said bed;

at least one wheel support arm (generally 65,66) having a first end (generally 67,68) in direct pivotal engagement with said bed and a second end being in direct pivotal engagement with an axle for a wheel (61,61',62,62');

said at least one support arm having a first position relative to said bed wherein said bed is substantially level and said at least one support arm having at least one other position wherein said bed is inclined;

an actuator (various such as gravity/weight of components, 95,78,82,99), said actuator being engaged with said at least one support arm and with said bed such that said actuator mediates travel of said support arm between said first position and said at least one other position, and

a connecting link (generally 73,74, and/or 99), said connecting link connecting said at least one support arm to at least one other support arm, said connection being remote

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from the axle of at least one wheel, said at least one other support arm being on the same side of the trailer as said at least one support arm, said connecting link moving said at least one other support arm between a first and second position when said at least one support arm is moved between said first position and said second position.

Re claim 2, Schramm teaches said hitch 94 is a tongue-type hitch.

Re claims 9,13, Schramm teaches an inclining trailer having a front and a rear, comprising:

a frame (generally 60) having a first side member, a second side member, and at least one cross-member interconnecting said first side member and said second side member;

a hitch 94 attached to said frame at the front;

a rotating member (generally 75,etc.) pivotally connected to said frame between the front and the rear, said rotating member having a first end, and a second end;

a first wheel support arm (generally 65,66) operatively connected directly to said first end of said rotating member, said first wheel support arm having a proximate end and a distal end;

a second wheel support arm (generally 65,66) attached to said second end of said rotating member, said second wheel support arm having a proximate end and a distal end;

an axle (not numbered) located at said distal end of each wheel support arm;

a wheel (generally 61,61',62,62', or even the pivots 72,71,etc.) operatively connected to each axle;

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an actuator (various such as gravity/weight of components, 95,78,82,99) capable of rotating said rotating member, said actuator operatively engaged with at least one of said wheel support arms and with said frame, whereby said frame is correspondingly inclined or declined;

at least one shoe (generally bottom of 65,66, or even 100 if the load on the trailer is heavy enough to bend 69,70 far enough) capable of ground engagement located vertically below said frame and longitudinally between said wheels and the front, and a connecting link (generally 73,74, and/or 99), said connecting link connecting said at least one support arm to at least one other support arm, said connection being away from the axle of at least one wheel, said at least one other support arm being on the same side of the trailer as said at least one support arm, said connecting link moving said at least one other support arm between a first and second position when said at least one support arm is moved between said first position and said second position.

Re claim 10, Schramm teaches said at least one shoe operatively connected to said frame.

Re claim 11, Schramm teaches said at least one shoe integral with at least one of said first and second wheel support arms.

Re claim 12, Schramm teaches said at least one shoe operatively connected to said rotating member.

Re claim 14, Schramm teaches a tongue-type hitch 94.

Re claims 24-28, Schramm teaches a trailer comprising:
a frame (generally 60);

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two wheels (61,61',62,62') on each side of said frame, each wheel being mounted on a wheel support arm (generally 65,66) at a first end portion of said wheel support arm, and said wheel support arm being pivotally mounted to the frame at a second end portion (generally 67,68) of said wheel support arm;

an extension (generally 69,70) on each of said wheel support arms on at least one side of said frame;

a connecting link (generally 73,74, and/or 99) having two ends, said first end being pivotally attached to one of said extensions (generally 69,70) of said support arms and said second end of said connecting link being pivotally attached to a lever arm (generally 75,98);

said lever arm being pivotally attached to the second of said support arms at an opposing end of said lever arm;

an actuator (various such as gravity/weight of components, 95,78,82,99) mounted to a bracket on said frame, said actuator being pivotally attached to said lever arm such that actuating movement of said actuator is transferred through said lever arm and said connecting link to each of said support arms to change a position of said frame relative to said wheels.

Re claim 29, Schramm teaches each of said two wheel support arms, said connecting link and said lever arm are in substantially the same vertical plane on each of the two sides of the trailer.

Re claim 30, Schramm teaches a rearward wheel support arm on each side of the trailer rotates through a greater degree of rotational travel than a said front support

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arm when said trailer bed is moved from a substantially level traveling position to a substantially inclined position.

Re claim 31, Schramm teaches hitch 94 capable of being in fixed relation to said bed such that movement of said bed from a substantially level position to a substantially inclined position rotates substantially around a pivot point defined by the trailer hitch attachment to a vehicle hitch.

Claims 9-14, 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Williamson (US 3,012,682).

Re claims 9, 13, Williamson teaches an inclining trailer 10 having a front and a rear, comprising:

a frame 12 having a first side member, a second side member, and at least one cross-member interconnecting said first side member and said second side member;

a hitch 108 attached to said frame at the front;

a rotating member 16, 18 pivotally connected to said frame 12 between the front and the rear,

said rotating member 16, 18 having a first end, and a second end;

a first wheel support arm (22, 23, 24, etc.) operatively connected directly to said first end of said rotating member, said first wheel support arm having a proximate end and a distal end;

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a second wheel support arm (22,23,24,etc.) (other side) operatively connected to said second end of said rotating member, said second wheel support arm having a proximate end and a distal end;

an axle 28 located at said distal end of each wheel support arm;

a wheel 30 operatively connected to each axle;

an actuator 40 for rotating said rotating member, said actuator operatively engaged with at least one of said wheel support arms and with said frame, whereby said frame is correspondingly inclined or declined;

at least one shoe 22 (figure 3) for ground engagement located vertically below said frame 12 and longitudinally between said wheels (rear wheels) and the front; and

a connecting link 26, said connecting link connecting said at least one support arm (22,23,24,etc.) to at least one other support arm 32, said connection being away from the axle of at least one wheel, said at least one other support arm being on the same side of the trailer as said at least one support arm, said connecting link moving said at least one other support arm between a first and second position when said at least one support arm is moved between said first position and said second position.

Re claim 10, Williamson teaches said at least one shoe 22 is operatively connected to said frame.

Re claim 11, Williamson teaches said at least one shoe 22 is integral with at least one of said first and second wheel support arms.

Re claim 12, Williamson teaches said at least one shoe 22 is operatively connected to said rotating member 16,18.

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Re claim 14, Williamson teaches said hitch 108 is a tongue-type hitch.

Re claim 24, Williamson teaches a trailer comprising:

a frame 12;

two wheels 30 on each side of said frame, each wheel being mounted on a wheel support arm (22,23,24,etc.) at a first end portion of said wheel support arm, and said wheel support arm being pivotally mounted to the frame at a second end portion of said wheel support arm:

an extension (32 or the extended edge of the support arms themselves read on this) on each of said wheel support arms (22,23,24,etc.) on at least one side of said frame 12;

a connecting link 26 pivotally attached at each end portion of said connecting link to each of said extensions on said support arms on at least one side of said frame;

an actuator 40 mounted to said frame, said actuator being operatively engaged with said connecting link such that actuation of movement of said connecting link, through said connecting link's pivotal attachment with said support arm extensions, changes a position of said frame relative to said wheels.

Re claims 25, Williamson teaches the actuator 40 may be pneumatic or hydraulic (column 2, line 60).

Re claim 26, Williamson teaches said actuator pivotally engaged with one of said end portions of said connecting link 26.

Re claim 27, Williamson teaches said actuator 40 pivotally engaged with one of said extensions of said support arms (22,23,24,etc.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schramm (US 2,990,966) in view of Cash (US 5,967,733).

Re claims 3,15 Schramm has a hitch but is silent regarding a gooseneck-type hitch. Cash teaches that gooseneck-type hitches are well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Schramm by Cash to have a gooseneck-type hitch in order to allow the trailer to be pulled by vehicles requiring a gooseneck-type hitch connection.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schramm (US 2,990,966) in view Williamson (US 3,012,682).

Re claims 4, Schramm is silent regarding a reverse beaver tail bed portion but Williamson teaches a reverse beaver tail bed portion to allow easier loading and unloading. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Schramm by Williamson to have a reverse beaver tail bed portion to allow easier loading and unloading.

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Re claims 5,6, Schramm teaches actuator(s) (various such as gravity/weight of components, 95,78,82,99) but is silent regarding a pneumatic or linear drive motor actuator. Williamson teaches a powered actuator 40 to allow easier control. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Schramm to have the actuator be any equivalent well known type of actuator such as pneumatic or a linear drive motor, in order to allow easier control.

Claims 7,8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schramm (US 2,990,966) in view of Collins (US 6,135,700).

Re claims 7,8, Schramm teaches actuator(s) (various such as gravity/weight of components, 95,78,82,99) but does not teach a hydraulic pump and actuator. Collins teaches a hydraulic pump 90 operatively mounted on the frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified to have modified Schramm by Collins to have an hydraulic actuator and an hydraulic pump operatively mounted on the frame in order to provide easier control with a nearby hydraulic power source for the actuator.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williamson (US 3,012,682) in view of Cash (US 5,967,733).

Re claim 15 Williamson has a hitch 108 but is silent regarding a gooseneck-type hitch. Cash teaches that gooseneck-type hitches are well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have

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modified Williamson by Cash to have a gooseneck-type hitch in order to allow the trailer to be pulled by vehicles requiring a gooseneck-type hitch connection.

Conclusion

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 8/28/07 have been fully considered but they are not persuasive.

Applicant argued about "a rail support arm" for claim 24. There does not appear to be "a rail support arm" in claim 24 and applicant did not claim directly attached as in amended claim 1 so the elements of the reference can be indirectly attached. It is unclear what applicant is arguing regarding the wheels having their own support arm, the reference has the support arms as claimed.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., rail support arm) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Lowe 11/1/07
Michael Lowe
Patent Examiner AU 3652